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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 1, 1998

APPLICATION OF

NORTHERN VIRGINIA UTILITY  
PROTECTION SERVICE INCORPORATED

CASE NO. PUE980048

For Certification as Notification  
Center for Northern Virginia  
pursuant to § 56-265.16:1 of the  
Code of Virginia

FINAL ORDER

On January 12, 1998, Northern Virginia Utility Protection Service, Incorporated, ("NVUPS" or "Applicant") filed an application pursuant to § 56-265.16:1 of the Code of Virginia. In that application NVUPS requests authority to be certified as the notification center for operators having the right to bury underground utility lines in Northern Virginia.<sup>1</sup> NVUPS notes that the application is supported by the operators of the underground facilities responsible for more than half of the ticket volume applicable to that area as required by Rule 8 of the Commission's Rules Governing Certification of Notification Centers. The Applicant notes that One Call Concepts, Inc. ("OCC"), is currently certificated as the notification center for

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<sup>1</sup> Northern Virginia is generally described as all of Virginia north of the southernmost boundaries of the counties of Shenandoah, Warren, Fauquier, Stafford, and Northhampton.

that area but is willing to transfer that certificate to NVUPS pursuant to certain contractual arrangements with the Applicant.

In an order entered on February 9, 1998, the Commission directed NVUPS to give notice of its application and to provide the public with an opportunity to file written comments and requests for hearing. The Commission also directed its Staff to conduct an investigation into the reasonableness of the application and to present its findings and recommendations in a report to be filed on or before April 15, 1998.

Pursuant to that order, Byers Engineering Company ("Byers"), a firm that conducts underground utility location service in the Northern Virginia area, filed written comments on the application. In its comments Byers noted that OCC, either directly or through an affiliate, also performs underground utility location service in Virginia. Byers further noted that there was a potential for OCC to have a competitive advantage in pursuing locating contracts because of its access to certain data and information obtained in response to fulfilling the obligations set forth in the Underground Utility Damage Prevention Act. Byers specifically noted concerns regarding the potential for OCC to control and prioritize the distribution of locate requests to benefit its locating business; to control or influence the responses to the Ticket Information Exchange System to use knowledge of competitors' performance data to pursue locate contracts; and to influence the performance of competing

locating companies by expediting its own locate requests and delaying those of competitors. Byers requested that the Commission establish enforceable procedures to eliminate the potential for such a competitive advantage.

Pursuant to Staff's request, both NVUPS and OCC filed responses addressing Byers' concerns. In its response OCC noted a number of safeguards that would address the above referenced concerns.

On April 15, 1998, Staff filed its report. In its report Staff recommended that the Commission issue a certificate to NVUPS effective July 1, 1998; that the Commission revoke the certificate currently authorizing OCC to serve as the notification center for that area (Certificate No. NC-2) effective that same day; and that the Commission include in its order certain language that would prohibit the Applicant or its contractor from using any information obtained in the course of performing its statutory duties to give any party a material advantage in procuring or performing individual contracts for underground utility location services.

NOW THE COMMISSION, having considered the application, the comments and responses hereto, Staff's Report, and applicable law, is of the opinion that NVUPS should be granted a certificate to serve as the notification center for Northern Virginia. We will issue such certificate and cancel the certificate currently issued to OCC effective July 1, 1998. We note the concerns

raised in written comments filed by Byers and the responses thereto. We also note Byers' request for the establishment of certain enforceable procedures.

We will not establish such procedures at this time. We will, however, put the Applicant on notice that we do not expect NVUPS and/or the operator of the notification center to use any information obtained in performing its statutory duties to give any party an advantage in procuring or performing individual contracts for underground utility location services.

Accordingly,

IT IS ORDERED THAT:

(1) Effective July 1, 1998, Certificate No. NC-2 issued to One Call Concepts, Inc., shall be cancelled.

(2) Effective July 1, 1998, Certificate No. NC-3 shall be issued to Northern Virginia Utility Protection Service, Incorporated, authorizing it to serve as the notification center for the area known as Northern Virginia as detailed herein.

(3) There being nothing further to be done, this matter be, and hereby is, dismissed.